

U.S. court dismisses case against Qwest

By Andrew Harris

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Qwest Communications International Inc., the fourth-largest U.S. local phone company, won dismissal of a securities fraud suit filed after a joint venture between Qwest and a Dutch telecommunications firm went bankrupt.

U.S. District Judge Garrett Brown in Trenton, N.J., threw out the case Tuesday, ruling it should have been filed in the Netherlands. Trustees of the bankrupt KPNQwest NV sued, seeking more than \$7.2 billion in damages and claiming three former Qwest executives engaged in racketeering.

"Plaintiffs can bring this action in the Netherlands, their home jurisdiction, and do so with confidence that the local court would entertain the action," Brown wrote. The failed company, with 130 European affiliates, was created in 1999 by Qwest and Hague-based Koninklijke KPN NV, Brown said.

The dismissal means the trustees can't seek triple damages under the U.S. Racketeer Influenced and Corrupt Organization Act. They claimed \$2.4 billion and asked for punitive damages.

KPNQwest, based in Hoofddorp, Netherlands, filed for bankruptcy in 2002 in a Dutch court.

Named as defendants were Qwest and former executives Joseph Nacchio, a former chairman and chief executive officer; Robert Woodruff, an ex-chief financial officer; and John McMaster, a former vice president for international business.

McMaster also served as KPNQwest's chief executive officer. He was the sole member of its management board, according to the lawsuit complaint, filed in September. Nacchio and Woodruff were on KPNQwest's supervisory board, the complaint said.

"Qwest is pleased with the court's ruling," company spokesman Bob Taves said in a statement. "As with all pending litigation, we have no further comment at this time."

KPNQwest's lead U.S. counsel, Richard McMillan of the Washington law firm Crowell and Moring, didn't immediately return a call seeking comment.

The company was launched to "build and operate a high-capacity European fiber optic Internet Protocol-base network linked to Qwest's North American network for data, video and voice services," court papers said.

KPNQwest went bankrupt after building a 60-city network just before prices collapsed for such services. The company had to sell the network piecemeal after failing to find a buyer for the entire company.

The complaint accused the trio of manipulating KPNQwest and controlling the flow of information to the supervisory board.

Nacchio led Qwest from May 1999 to June 2002. He faces criminal charges of selling \$101 million in Qwest shares in 2001 knowing the company's revenue targets were overstated. Nacchio has denied any wrongdoing.

Shares of Qwest fell 14 cents to close at \$8.12 Wednesday on the New York Stock Exchange.